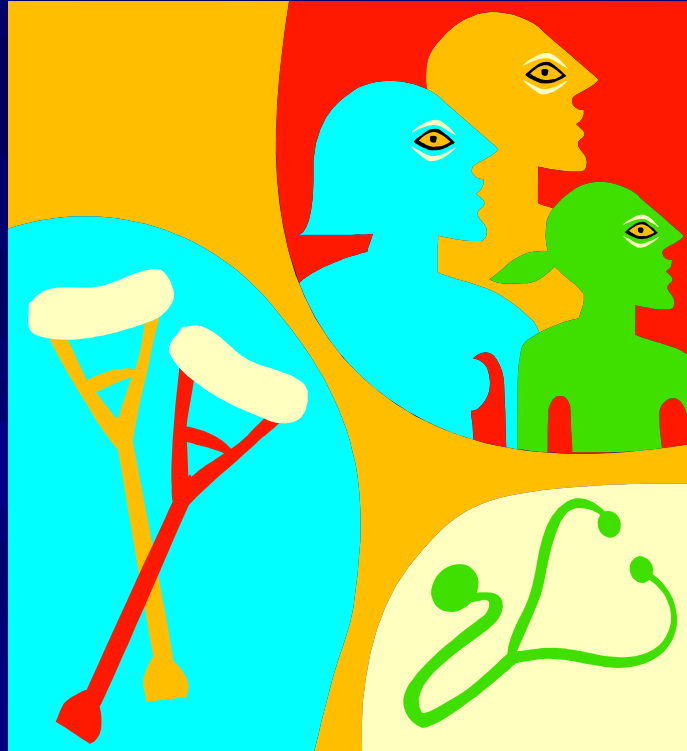


Louisiana Department of Insurance: 2004 Legislative Review



J. Robert Wooley
Commissioner of Insurance

Health Review



*Dickie Patterson, Deputy Commissioner
Office of Health Insurance*

Covering the Uninsured

- **Act 751** – “LaCHOICE”
- **Act 493** – Louisiana Safety Net Health Insurance Program
- **Act 799** – Flexible Health Benefit Policies
- **Act 843** – Federal Health Coverage Tax Credit Program

Act 751 – “LaCHOICE”

- Amends current law which authorized the Department of Insurance to establish a pilot health insurance program, in conjunction with the Department of Health and Hospitals, for small employers to include eligible uninsured individuals;**
- Provides for certain underwriting and risk criteria as well as establishes criteria for public subsidy.**

Act 493 – Louisiana Safety Net Health Insurance Program

- **Amends current law, creating the Louisiana Safety Net Health Insurance Program which authorized insurers to issue limited benefit insurance policies;**
- **Transfers all administration and oversight of the program from the Louisiana Health Plan to the Louisiana Department of Insurance.**

Act 799 – Flexible Health Benefit Policies

Authorizes any health insurer or health maintenance organization properly authorized in Louisiana to offer flexible health benefit policies, contracts and agreements without state health insurance mandates.

Act 843 – Federal Health Coverage Tax Credit Program

Requires the Department of Insurance to develop a pilot program to administer the Federal Health Coverage Tax Credit Program.

Premium Rates

- **Act 426** – Increases deviation between rating classification factors from + or – 20% to + or – 33% (Individual Policies).
- **Act 663** – Excludes small employer group and individual “high deductible health plans,” qualified as health or medical savings accounts, from laws governing premium rates.

Consumer Protections

Act 269 – Provides that a newborn child shall be added to a group or individual health plan, effective upon birth. Requires 90-days notice of cancellation for non-payment to DHH by certified mail, with copies to each treating provider within three days.

Consumer Protections, continued

- **Act 431** – Eliminates a deductible applied to coverage for Childhood Immunizations for any new policy, contract, program or plan issued on or after January 1, 2005.
- Any policy, contract or plan in effect prior to January 2005 must convert to conform to this new provision on or before the renewal date, but in no event later than January 1, 2006.

Consumer Protections, continued

- **Act 504** – Provides for continuity of health care services under limited circumstances:
 - **High Risk Pregnancy or past the 24th week.**
 - **Diagnosis of life threatening illness.**

Consumer Protections, continued

- **Act 554** – Health insurers must provide benefits for injuries denied by workers' comp plan;
Extends time period for filing claim with health plan to 180-days after denial.
- **Act 607** – Allows a patient to choose an alternative dental service and pay the difference between amount of covered service and the chosen alternative.

Provider Protections

- **Act 876** – Provides relative to prompt payment of health insurance claims submitted by pharmacies or pharmacists. (Effective January 1, 2005).
- **Act 671** – Provides for a credentialing process for health insurance issuers who contract directly with health care provider for health care services.
- **Act 51** – Deletes requirement that a social worker must provide services under consultation with a physician in order for such services to be covered.

Medical Necessity Appeals

- **Act 450** – Provider may be liable for the costs of the Second Level Appeal if all of the following occur:
 - 1) **The provider filed the appeal on behalf of the covered person;**
 - 2) **A prior adverse determination is upheld;**
 - 3) **An extremely high percentage of requests were not warranted by available medical information; and**
 - 4) **The Commissioner approves MNRO's action to require payment.**

Employee Coverage

- **Act 325** – Defines “Critical Illness” policy and exempts from prohibitions on discrimination on the basis of genetic information.
- Adds a requirement that an association (in the individual market) must have had an active existence of five years.
- Allows an insurer to establish a multiple employer trust, provided each participating employer and employee receive all rights under the law normally due a policyholder.

Questions?

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Mark Your Calendar!

**Ninth Annual Health Care Conference –
Louisiana Department of Insurance**

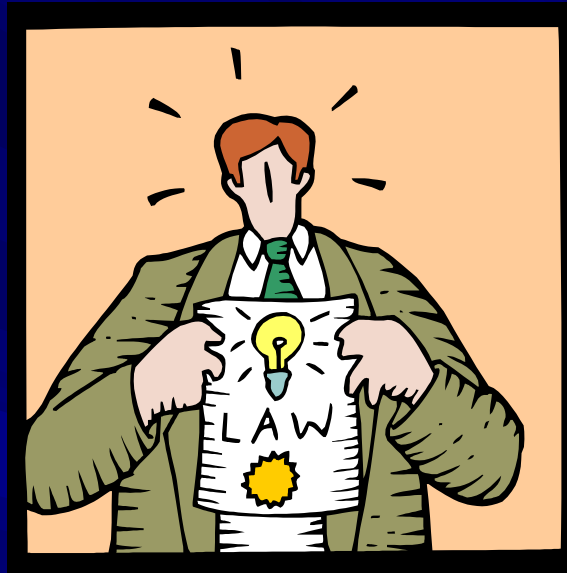
October 12, 2004 – Holiday Inn Select

To register, visit our Web site:
www.lidi.state.la.us or call (225) 342-5075.

Break

See you in 15 minutes.

Financial Solvency Review



Ron Musser, Assistant Commissioner
Caroline Brock, Chief Examiner

HCR 8

Insurance Regulatory Modernization Act

Urges and requests the Department of Insurance to pursue with certain expectations the insurance regulatory modernization action plan formulated by the National Association of Insurance Commissioners (NAIC).

Act 108

Asbestos Claims

Provides for procedures for asserting claims against the Louisiana Insurance Guaranty Association (LIGA) involving asbestos exposure.

- Must first exhaust all other insurance for any “policy period” for which the insurance is available before recovering from LIGA.
- In cases of personal injury or death from asbestos exposure, the claimant must be domiciled in LA at the time of exposure or the exposure must have occurred in LA.

Act 109

LIGA Claims

Provides for determining net worth for purpose of covered claims under LIGA.

- Defines “affiliate” of an insured as a person or entity who is controlled by the insured and bases the net worth on fair market value.
- Provides that if a person or entity fails to respond to two or more requests for a net worth affidavit, it creates a rebuttable presumption that the net worth exceeds \$25 million.
- Adds that LIGA may also recover the costs of defense of the claim.

Act 140

LIGA Deposits

Repeals law requiring LIGA to deposit monies into the state general fund.

Act 342

Domestic Insurers

Authorizes domestic insurers to place their securities with a brokerage firm.

Act 466

Surplus Lines

Provides for surplus lines policies and certain requirements for surplus lines insurers and brokers.

- Requires surplus lines stamp to be in “**RED**” or to be in **bold** type with border.
- No longer requires surplus lines producers to keep their books and records in an office in the state.

Act 505

Land Investments

Deletes requirement of having approval of Commissioner of Insurance for domestic insurers to invest in land.

- **This was the only investment that required prior approval by the Commissioner, and there are other safeguards in place to regulate these types of investments.**

Bail Bonds

- **Act 374** – Provides that officers charged with defendant's detention provide surety with receipt for fees collected in connection with the surrender of the defendant; and to provide for related matters.
- **Act 496** – Provides for the cancellation of the bail bond in felony cases upon entry of a plea of guilty or nolo contendere; and to provide for relative matters.

Questions?

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- **Caroline Brock, Chief Examiner**
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Lunch Break

See you at 1:30 p.m.

Licensing Review



Mike Boutwell, Asst. Director of Licensing

Act 286

Louisiana Consortium of Insurance and Financial Services

This act opens up appointments to the Board of Directors for the Louisiana Consortium of Insurance and Financial Services to allow members of the full Senate and members of the full House of Representatives to be nominated. Previously only members of the Insurance Committees were eligible.

Act 350

Title Insurance

This act states that title insurance is added to the types of products that may be sold by a financial institution without meeting certain provisions regarding the separation of financial services and insurance.

Act 372

TPA Bonds

This act will change the bond requirement for a TPA from a fidelity bond to a surety bond.

The Department will expect all of the bonds currently used to satisfy the requirements of LRS 22:3041I(1) to be converted to a surety bond upon the next renewal date. There are no plans to require a cancellation prior to the renewal of the bonds.

Act 376

Risk Retention Groups

This bill accomplishes the following:

- Provides for the repeal of certain portions of the code found to be contrary to federal pre-emption in National Risk Retention Association et al. vs. James H. “Jim” Brown;**
- Places the fee for registration of risk retention groups in the portion of the code with other fees;**
- Provides a mechanism for the de-registration of risk retention groups that have found to be insolvent or that would otherwise be harmful to the public in Louisiana.**

Act 377

Deposits

This act clarifies that the deposit in the domiciliary state is for the benefit of ALL policyholders and not just for those policyholders in the domiciliary state.

Act 441

Credit Insurance

The purpose of this bill is to clarify that a bank may sell an accidental death and dismemberment policy in connection with a credit transaction for which the consumer may name a beneficiary of their choice rather than having the proceeds go to extinguish the credit obligation. Such policies have been part of credit transactions for years and the Department has never intended to separate such contracts from other credit insurance transactions.

Act 512

Continuing Education

This bill allows for the “carry-over” of 10 hours of property and casualty continuing education credits from the previous renewal period to the next and six hours of life, health and accident credits from the previous renewal period to the next.

It also deletes the requirement that a request for continuing education exemption for persons age 65 or older be notarized.

Act 525

Director Requirements

This act deletes the requirement that a director of an insurance company hold a minimum of 10 shares of the insurance company or the holding company of an insurance company.

Act 549

Cancellation Refund

This act provides that a refund of premium due to an insured as a result of the cancellation of a policy may be paid to the insured or the agent of the insured or such other person entitled thereto as shown by the policy.

The act also requires that when payment is made to the agent, the insurer must provide notice to the insured that such a refund may be forthcoming.

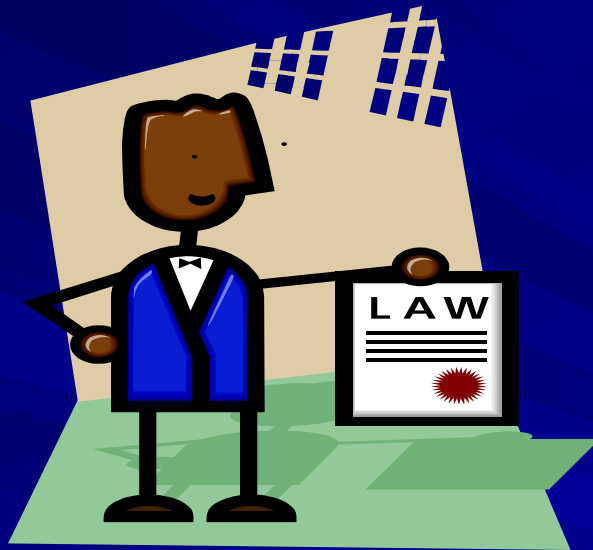
Questions?

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Life and Annuity Review



Beth O'Quin, Contract Forms Supervisor

Act 497

Annuity Nonforfeiture Rate

Extends the 1.5% interest paid on annuities by insurers from July 1, 2004 to July 1, 2005

Act 689

Funeral Policies

Provides for payment of the dollar value of the funeral to be furnished, if upon death of the insured, the dollar value of the funeral to be furnished, as stated in the policy or policies, is less than the retail price of the funeral benefits specified in the policy or policies, then the beneficiary shall be entitled to a cash payment which shall be equal to 100% of the face amount of the policy or policies.

Act 780

Long Term Care Insurance

Amends the Long Term Care Insurance statutes by including additional consumer protections. Once the statutes become effective, we will be updating Regulation 46 (LTC).

Act 780: Long Term Care Insurance, continued

Effective January 1, 2005, changes to Long Term Care will include the following:

- The new statutes will apply to new and existing policies upon renewal.
- Section 1734 – Certain definitions currently found in Regulation 46 were moved to Title 22.
- Section 1735 – Discretionary Groups will have file their forms for approval.
- Section 1736 F – Expands the 30-day free look provision to group certificate holders.

Act 780: Long Term Care Insurance, continued

- **Section 1737 – Establishes incontestability specifically for long term care insurance which details when and for what reasons a policy can be rescinded or a claim denied by the insurer.**
- **A policy/certificate that has been in force :**
 - ❖ **Less than six months can rescind or deny upon showing of misrepresentation that is material to the acceptance of coverage.**
 - ❖ **At least six months but less than two years may be rescinded or denied if the misrepresentation is both material to the acceptance of coverage and pertains to the conditions for which the benefits are sought.**
 - ❖ **After two years the policy/certificate is not contestable on material misrepresentation alone. It may only be contested upon showing the insured knowingly and intentionally misrepresented material facts relating to their health.**

Act 780: Long-Term Care Insurance, continued

- Section 1738 – Establishes contingent nonforfeiture benefits when a consumer has suffered a substantial premium rate increase. This section also directs the DOI to issue regulations that are specific to nonforfeiture benefits and contingent nonforfeiture benefits.
- Section 1739 – Directs the DOI to issue regulations to promote premium adequacy and to protect the consumer in the event of substantial rate increases.
- Section 1741 – Establishes penalties.

Act 838 Credit Life Database Exception

**Excludes credit life from being included
in the life policy search.**

Questions?

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Fraud Review



Michell Bond, Director of Fraud
Chad Brown, Chief of Staff

Act 373

Termination Date

Changes the termination date for the Insurance Fraud Unit.

- Changes the termination date to July 1, 2008.

Act 498

Fraudulent Acts

Defines fraudulent insurance acts relative to viatical settlements and unauthorized insurance.

Act 711
Louisiana Automobile Theft and
Insurance Fraud Prevention
Authority

**Establishes the Authority in the Department
of Insurance.**

Questions?

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Property and Casualty Review



Paula Davis, Deputy Commissioner

Act 826

Definition of a Claim

“..., an incident shall be deemed a claim only when there is a demand for payment by the insured or insured’s representative under the terms of the policy. A report of a loss or a question relating to coverage shall not independently establish a claim.”

Act 878

Commercial Deregulation

- Insurers negotiating with and insuring commercial entities with at least \$10,000 in annual insurance premium shall be required to file insurance rates or rate changes for such entities with the OPC for informational purposes only.
- Those insurers negotiating with and insuring commercial entities under \$10,000 in annual insurance premiums will now file under a 45-day file and use system.
- Excludes workers' compensation and medical malpractice.
- Gives DOI exclusive authority to accept, review and approve applications for rate changes.

Act 770

Military Personnel

Each auto insurer in the state shall provide to active military personnel based in Louisiana a discount of twenty-five percent of the premium on any auto liability insurance policy purchased in the state to cover their motor vehicle.

Act 378

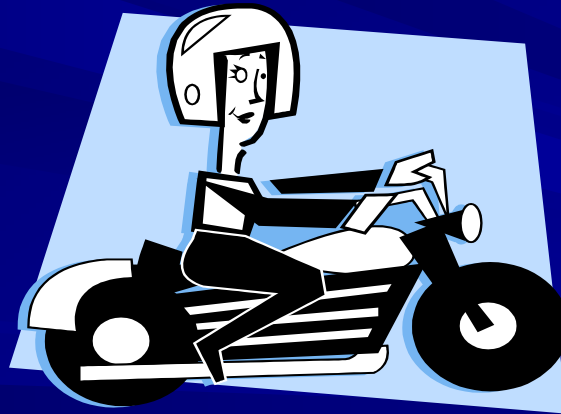
Motorcycles

- **Amends LRS 32:863.3 by moving to Title 22.**
- **Also, amends 32:863.3(C) to say:**
“Except in the case of an initial application for the endorsement, a company may issue a policy with a period not to extend more than 30 days.”

Act 742

Motorcycle Helmets

Requires any person who operates or rides upon a motorcycle to wear a safety helmet.



Act 15

Open Container

- **Prohibits a passenger of a motor vehicle from possessing an open alcoholic container while the motor vehicle is operated on a public highway or right-of-way.**
- **Defines “open alcoholic beverage container.”**
- **Increases fines for violation from \$50 to \$100.**
- **Allows for exclusions, such as paid fare passengers, passengers in certain motor homes, and krewe members riding on a parade float.**

Act 730

DWI Database

Authorizes the Department of Insurance to give \$300,000 to the Office of Motor Vehicles. This money shall be used to update software to allow for an Article 894 database to be properly utilized.

Questions?

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Thanks for coming!

**For more information, please
visit our Web site.**

www.ldi.state.la.us